REMARKS

This Amendment is in response to a Final Office Action mailed on September 21, 2007. A Request for Continued Examination under 37 C.F.R. §1.114 is being filed herewith so that the Examiner may consider the accompanying Amendment and arguments.

At the outset, Applicant wishes to thank the Examiner for the courtesies extended during the telephone interview conducted February 11, 2008. At that interview was discussed the pending rejections.

Claims 11-22 are pending in this Application. By this Amendment, claim 1 has been amended to more particularly point out that the solid product formed in step one is contacted with component E prior to polymerization, support for which can be found, for example, on page 3, lines 1-2, and Example 1.

Claim Rejections

Rejections Under 35 U.S.C. § 103

A. Response to rejection of claims 11-22 under 35 U.S.C. 103(a) as being unpatentable over Kratzer et al.

In response to the rejection of claims 11-22 under 35 U.S.C. 103(a) as being unpatentable over International Publication WO 01/47635, its US family U.S. Patent No. 6,953,829 referred to for convenience, of Kratzer et al. ("Kratzer"), Applicant submits that a *prima facie* case of Obviousness has not been made out and traverse the rejection.

The U.S. Supreme Court in *Graham v. John Deere Co.*, 148 U.S.P.Q. 459 (1966) held that non-obviousness was determined under §103 by (1) determining the scope and content of the prior art; (2) ascertaining the differences between the prior art and the claims at issue; (3) resolving the level of ordinary skill in the art; and, (4) inquiring as to any objective evidence of non-obviousness.

Accordingly, for the Examiner to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation

of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See MPEP §2142.

The Examiner has rejected the claims on the basis that the only difference between Kratzer's working example and the instant claims is the timing of the drying step, and that one skilled in the art would be motivated to modify Kratzer to arrive the present claims. Applicant respectfully disagrees with this conclusion; however, in addition, Applicant respectfully submits that the currently recited claims also recite that the catalyst solid is contacted with component E prior to polymerization. No reason has been identified, either in the reference or in the Office Action, why one of skill in the art would have modified Kratzer to arrive at the currently recited claims. *See* U.S. PTO Memorandum dated May 3, 2007, re: Supreme Court Decision on *KSR Int'l. Co. v. Teleflex, Inc.*, stating that "in formulating a rejection under 35 U.S.C. § 103(a) based upon a combination of prior art elements, *it remains necessary to identify the reason why a person of ordinary skill in the art would have combined the prior art elements in the manner claimed*."). And as noted by the Supreme Court in KSR, "*[t]*o facilitate review, this analysis should be made explicit." (U.S. PTO Memorandum citing KSR, citation omitted). Therefore a *prima facie* case of Obviousness has not been made out.

However, even if a *prima facie* case of Obviousness had been made out, Applicant demonstrates in the specification unexpected results to overcome such a case. For example, Example 1 and the comparative example on page 30 clearly demonstrate unexpected positive results for contacting the solid of step 1 with component E, prior to polymerization. Moreover, with respect to Kratzer, the demonstrated yields are 28 to 44 kg/g of metallocene, however, the activity of Example 1 is 13.6 kg/g of catalyst solid. Even accounting for only the borinic acid (1.5 g) and silica gel (1.5 g), for every 50 mg of metallocene in Example 1, correspond to a catalyst solid-based yield of 829 kg PP/g of catalyst solid.

Reconsideration and withdrawal of the Rejection respectfully is requested.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Should the Examiner have questions or comments regarding this application or this Amendment, Applicant's attorney would welcome the opportunity to discuss the case with the Examiner.

The Commissioner is hereby authorized to charge U.S. PTO Deposit Account 08-2336 in the amount of any fee required for consideration of this Amendment.

This is intended to be a complete response to the Office Action mailed September 21, 2007.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with sufficient postage thereon with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 21, 2008.

February 21 2008
Date of Signature

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